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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,656	05/03/2001	Colin l'Anson	30003574 US	7310

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EXAMINER

THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/847,656

Applicant(s)

I'ANSON ET AL.

Examiner

Marissa Thein

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10-29-04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicants' "Amendment" and "Supplemental Amendment" filed on October 29, 2004 have been considered.

Applicants' response to claims 1-20 has overcome the Examiner's rejection of such claims under 35 USC 101.

Applicants' response by virtue of amendment to claims 18 and 19 has overcome the Examiner's objection of such claims.

Applicants' response by virtue of amendment to claim 21 has overcome the Examiner's rejection of such claim under 35 USC 112, second paragraph.

Claims 1, 5-7, 13, 15, 17-19, 21-22, 24 and 27 have been amended. Claims 1-31 remain pending in this application.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on October 29, 2004, pertaining to the Japanese Patent JP-A-9212730, which did not have an English translation, is being considered. However, the publication cited has not been considered because a copy was not provided.

Response to Arguments

Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.

Applicants' remark that Cupps does not include an ^{availability} ~~availability~~ enquiry. *Jan 1/24/05*

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The Examiner does not concur. Cupps does disclose an ^{availability} ~~availability~~ enquiry. jm 1/24/05

Cupps discloses an order database which includes a customer table having an entry for each customer, address table having an entry for each customer including the latitude and longitude coordinates associated with a customer's address, and other various table (col. 5, lines 28-35). Furthermore, Cupps discloses the order database is used for searching appropriate selections of restaurants (trader) (col. 7, lines 6-8). Such order database is considered the availability enquiry.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 22, the Applicants' recited claim "furthering including a mobile entity for sending over a cellular radio infrastructure to the service system" is unclear and vague to what is being sent over a cellular radio infrastructure. The Examiner is interpreting the claim its broadest reasonable interpretation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 5-17, 21, and 23-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent No. 5,991,739 to Cupps et al. in view of U.S. Patent No..

Regarding claim 1, Cupps discloses a shopping assistance, comprising the steps of:

- sending an enquiry message from an enquirer to a service system (see at least col. 2, lines 29-31; col. 2, lines 39-50; col. 8, line 43- col. 9, line 7; col. 9, lines 50-60);
- the service system (see at least col. 3, lines 49-56):
 - determining location associated with the enquiry(see at least col. 2, lines 25-29; col. 6, lines 19-30);
 - selecting from a database of traders, traders appropriate to the enquiry at least in terms of location and the type of the item of interest (see at least col. 2, lines 29-31; col. 6, lines 45-55; col. 7, line 66 – col. 8, line 6); and
 - forwarding the description of the item of interest to the selected traders in an availability enquiry (order database) (see at least col. 2, lines 24-29; col. 9, line 66 – col. 10, line 16); and
- providing a way for the selected trader to respond to the enquiry (see at least col. 2, lines 32-38; col. 8, lines 19-40).

However, Cupps does not disclose the enquiry message including both a machine-readable structured data part and unstructured data comprising image and/or audio data, which the unstructured data is of a type capable of at least one of for human

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interpretation. Cupps discloses a customer table having an entry for each customer that tenders an order to the online ordering machine, the customer entry including information that characterizes a particular customer (col. 5, lines 29-31). Furthermore, Cupps discloses an interactive voice recognition procedure that is used to convert a customer's text order into voice data that is transmitted to the vendor (col. 8, lines 19-21).

Ogasawara, on the other hand, teaches the enquiry message including both a machine-readable structured data part and unstructured data comprising image and/or audio data, which the unstructured data is of a type capable of at least one of for human interpretation (col. 10, lines 50-59; col. 19, lines 18-27).

Therefore, It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Cupps, to include the enquiry message both including a structured data part and unstructured data part, as taught by Ogasawara, in order to provide the customer (enquirer) a cost effective way of accommodating an electronic shopping method which serves multiple functions (col. 2, lines 53-57). Thus, it will provide the customer to customize their product enquiry.

Regarding claims 2, 5-7 and 24-25, Cupps discloses the location is the location of the enquirer (see at least col. 2, lines 24-29; col. 9, lines 50-57); the enquiry message includes a structured data part containing or including at least one type of parameter for the item of interest and selecting said traders by using the at least one parameter (see at least col. 2, lines 29-31; col. 2, lines 39-50; col. 8, line 43- col. 9, line 7; col. 9, lines 50-60); the service system is operative to process the description to extract at least one

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type parameter for the item of interest and selecting said traders by using the at least one parameter (see at least col. 6, lines 45-56; col. 7, line 66- col. 8, line 6); the availability enquiry (order database) includes contact information enabling a selected trader to directly contact the enquirer to inform the latter, on the basis of the description contained in the availability enquiry, about the availability through the trader of items of the same type as the item of interest (see at least col. 8, lines 19-23; col. 8, lines 43-55; col. 10, lines 7-43).

Regarding claims 8-14 and 26-28, Cupps discloses the selected trader sends a response to the service system giving information about the availability through the trader of items of the same type as the item of interest; the service system forwards the response to enquirer; the service system stores the response and the enquirer subsequently contacts the service system and retrieves the response; the multiple selected traders provide respective responses to the service system, the service system collating the responses and forwarding them to the enquirer; the multiple selected traders provide respective responses to the service system, the service system collating the responses and storing them, the enquirer subsequently contact the service system and retrieving the collated responses; the enquirer having received a said response via the service system and having decided that the response of interest, directly contacts the trader concerned using trader contact information contained in the response; and the direct contact is established by at least one of telephone, voice mail, fax, or e-mail (see at least col. 6, lines 44-56; col. 8, lines 19-24; col. 8, line 56 – col. 9, line 7; col. 9, lines 16-33; col. 10, line 44-col. 11, line 27; col. 10, lines 33-43).

Regarding claims 15-17 and 29-31, the enquirer having received a response via the service system and having decided that the response of interest, request the service system to establish live communication between the enquirer and trader concerned, the service system thereupon serving to mediate the establishment of direct live contact; the direct contact is established as a voice circuit via a telephone system; request the trader concerned, via service system to establish direct communication with the enquirer, this request including contact information for enabling the trader to contact the enquirer (see at least col. 8, lines 24-40; col. 10, line 33-56; col. 11, lines 13-34).

Regarding claim 21, Cupps discloses a shopping-assistance service system comprising:

- an enquiry-receiving subsystem for receiving an enquiry message (see at least col. 2, lines 29-31; col. 2, lines 39-50; col. 8, line 43- col. 9, line 7; col. 9, lines 50-60);
- a memory for at least temporarily storing the description (see at least Figure 1; col. 3, lines 49-55; col. 9, line 48-col. 10, line 6);
- a location subsystem for automatically selecting from a database of traders, traders appropriate to the enquiry at least in terms of location and type of item of interest (see at least col. 2, lines 29-31; col. 6, lines 45-55; col. 7, line 66 – col. 8, line 6);
- an output subsystem for forwarding the description of the item of interest to the selected traders in a availability enquiry (see at least col. 2, lines 24-29; col. 9, line 66 – col. 10, line 16); and

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- an enquirer-contact subsystem for providing a way for the selected traders to response to the enquiry (see at least col. 2, lines 32-38; col. 8, lines 19-40).

However, Cupps does not disclose the enquiry message including both a machine-readable structured data part and unstructured data comprising image and/or audio data, which the unstructured data is of a type capable of at least one of for human interpretation. Cupps discloses a customer table having an entry for each customer that tenders an order to the online ordering machine, the customer entry including information that characterizes a particular customer (col. 5, lines 29-31). Furthermore, Cupps discloses an interactive voice recognition procedure that is used to convert a customer's text order into voice data that is transmitted to the vendor (col. 8, lines 19-21).

Ogasawara, on the other hand, teaches the enquiry message including both a machine-readable structured data part and unstructured data comprising image and/or audio data, which the unstructured data is of a type capable of at least one of for human interpretation (col. 10, lines 50-59; col. 19, lines 18-27).

Therefore, It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system of Cupps, to include the enquiry message both including a structured data part and unstructured data part, as taught by Ogasawara, in order to provide the customer (enquirer) a cost effective way of accommodating an electronic shopping method which serves multiple functions (col. 2, lines 53-57). Thus, it will provide the customer to customize their product enquiry.

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Regarding claim 23, Cupps discloses the location is included in the enquire message and the location subsystem is operative to extract this location from the enquiry message (see at least col. 2, lines 29-31; col. 2, lines 39-50; col. 8, line 43- col. 9, line 7; col. 9, lines 50-60).

Claims 3-4 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent No. 5,991,739 to Cupps et al. and U.S. Patent No. 6,512,919 to Ogasawara in view of U.S. Patent No. 6,026,375 to Hall et al.

Regarding claims 3 and 22, the combination of Cupps and Ogasawara substantially discloses the claimed invention, however, the combination does not disclose the enquiry message being sent from a mobile entity over a cellular radio infrastructure to the service system and determining the location of the enquirer from a location server of the cellular radio. The combination discloses an online ordering machine, which is in communication using one or more telephone links (Cupps, col. 3, lines 54-56). Furthermore, the combination discloses the communication link is any type of wire or wireless link between computers (Cupps, col. 3, lines 57-59). Hall, on the other hand, teaches the mobile entity over a cellular radio and the determination of the location of the enquirer from a location server of the cellular radio (col. 2, lines 49-61; col. 5, lines 38-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination, to include the mobile entity over a cellular radio and the determination, as taught by Hall, in order to determine a facility capable of completing the order based on the customer's location (Hall col. 2, lines 29-

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31), so as to provide a user-friendly method that reduces or eliminates the time a customer in a mobile environment waits to receive an order (Hall col. 2, lines 24-26).

Regarding claim 4, the combination of Cupps and Ogasawara substantially discloses the claimed invention, however, the combination does not disclose the location is a shopping location identified in the enquiry message by the enquirer. The combination discloses an online ordering machine accepts orders from the customer for a particular product from a selected vendor (Cupps, col. 2, lines 30-32). Hall, on the other hand, teaches the location is a shopping location identified in the enquiry message by the enquirer (col. 2, lines 49-61).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination, to include the shopping location identified in the enquiry message, as taught by Hall, in order to eliminate or greatly reduce the time the customer spends waiting to receive goods or services (Hall col. 1, lines 19-21).

Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent No. 5,991,739 to Cupps et al. and U.S. Patent No. 6,512,919 to Ogasawara as applied to claim 1 above, and further in view of U.S. Patent No. 6,219,696 to Wynblatt et al. The combination of Cupps and Ogasawara substantially discloses the claimed invention, however, the combination does not disclose giving the Universal Resource Identifier where the enquirer can find information about items of the same type as the item of interest that are available through the trader and the URI to access the information. Cupps discloses the Internet access procedures; web server

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procedures; web pages (col. 4, lines 66-67; col. 5, lines 20-21). Wynblatt, on the other hand, teaches the URL que and a WWW renderer/browser (see at least col. 1, line 66 – col. 2, line 8; col. 3, lines 26-38). URI is defined as Uniform Resource Identifier, generic term for all types of names and addresses that refer to objects on the World Wide Web. A URL is one kind of URI. (Computer & Internet Dictionary 1999).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Cupps, to include the URI, as taught by Wynblatt, in order to provide a particular address of the vendor in the World Wide Web.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,991,739 to Cupps et al and U.S. Patent No. 6,512,919 to Ogasawara.

The combination substantially discloses the claimed invention, however, the combination does not disclose the identity of the enquirer not being disclosed. The difference is only found in the nonfunctional descriptive language and is not functionally involved in the steps recited. The not disclosing the identity of the enquirer would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to not disclose the identity of the enquirer such data does not functionally related to the steps in the method claimed and because the

subjective interpretation of the data does not patentably distinguish the claimed invention.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 703-305-5246. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 703-308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mtot
January 24, 2005


JAMES MCCLELLAN
PRIMARY EXAMINER